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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/762,837	02/13/2001	Thomas Birkholzer	259/280	2743

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EXAMINER
SAADAT, CAMERON

ART UNIT	PAPER NUMBER
3713	14

DATE MAILED: 05/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

6-i

Office Action Summary	Application No.	Applicant(s)	
	09/762,837	BIRKHOLZER ET AL.	
	Examiner	Art Unit	
	Cameron Saadat	3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 2/17/03 .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 13-15 and 17-35 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 13-15 and 17-35 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

In response to Amendment filed 2/17/03, claims 13-15, 17-27, and newly added claims 28-35 are pending in this Application. Claim 16 has been cancelled, and Substitute Specification filed 2/17/03 has been entered.

Claim Objections

1. Claims 22 and 32 are objected to because of the following informalities: "comprises on" should be recited as - - comprises one - - to fix the typographical error. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. **Claims 13-24, and 27-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burns (USPN 5,904,484), in view of Baker (USPN 5,486,001).**

Regarding claim 13, Burns discloses a system for self-monitoring by a moving person of body movements, comprising: a video camera configured to generate a recorded video image or image sequence; a monitor operatively coupled to the video camera for outputting the recorded video image or image sequence; an insertion component configured to insert at least one moving marker, indicating a predetermined movement or body position, into the video image or image sequence (Col. 2, line 43 – Col 3, line 65); and to detect characteristic points, lines, contours, or equivalent characteristics of the person shown in the recorded video image, or of the displayed area of the person, while the person is not moving; to automatically adapt the marker in a manner dependent on a detection result; and to automatically adapt a size or insertion position on the marker in a manner dependent on the detection results; wherein the insertion component is configured to detect characteristic points, lines, contours, or equivalent characteristics of the moving person or of a displayed area of the moving person (Col. 5, lines 52-55; Col. 7, line 66 – Col. 8, line 4; Col. 11, lines 2-4).

Burns discloses all of the claimed subject matter of claim 13 with the exception of not explicitly disclosing that the insertion component is configured to *automatically* adapt the movement speed of the moving marker to the movement speed of the moving person or of a displayed area of the moving person. Burns suggests a means for providing control of the speed of the moving marker (See Claim 14), but does not specify an *automatic* means. However, Baker discloses a system for self-monitoring body movements, wherein the insertion component is configured to *automatically* adapt the movement speed of the moving marker and the movement speed of the moving person to match one another (Col. 7, lines 44-54). Hence, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to

modify the insertion component described in Burns, by automatically adapting the movement speed of the moving marker and moving person, in light of the teachings Baker, thereby automatically synchronizing the images for comparison.

Regarding claim 14, Burns discloses a system wherein the insertion component is configured for inserting at least one stationary marker that is stationary during the body movement and indicates a predetermined, ideal body movement (see claim 13).

Regarding claim 15, Burns discloses a system wherein the insertion component is configured for inserting at least one stationary marker suitable for adjustment of the person with respect to the video camera (see claim 16).

Regarding claim 17, Burns discloses a system wherein the insertion component is configured to automatically adapt a size and/or insertion position of the marker in a manner dependent on the detection result (column 7, line 36 – column 8, line 4).

Regarding claim 18, Burns discloses a system wherein the insertion component is configured: to detect characteristic points, lines, contours, or equivalent characteristics of the person shown in the recorded video image or image sequence, or of the displayed area of the person, while the person is performing a movement sequence and is shown in the recorded video image sequence; to automatically adapt the marker in a manner dependent on a detection result (column 7, line 36 – column 8, line 4).

Regarding claims 19 and 28, Burns discloses a system wherein the insertion component is configured to automatically adapt a size and insertion position of the marker in a manner dependent on the detection result (column 7, line 36 – column 8, line 4).

Regarding claims 20 and 29-31, Burns discloses a system wherein the system is further configured for *manually* varying size and insertion position and movement speed of the marker (Col. 9 line 66 – Col. 10, line 12; Col 7, line 59; Claim 14).

Regarding claim 21, Burns discloses a system comprising a storage component operatively coupled to the insertion component, wherein for a plurality of different predetermined body movement sequences, insertion data is stored for at least one marker, and the person may select from among the stored insertion data (see claim 23).

Regarding claims 22 and 32, Burns discloses a system wherein the moving marker comprises point 78 and line 74 (see Fig. 4b).

Regarding claims 23 and 33-35, Burns discloses a system wherein a point and a line form a stylized person (see Fig. 2a, ref. 12).

Regarding claim 24, Burns discloses a system wherein the system is configured for allowing the user to select from among different display forms (see claim 17).

Regarding claim 27, Burns discloses a system wherein the insertion component 210 comprises a separate component within a communications channel between video camera 230 and monitor 250 (see Fig. 7).

5. Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burns (U.S. Patent No. 5,904,484), in view of Baker (USPN 5,486,001), further in view of Uekane et al. (USPN 5,559,554; hereinafter Uekane).

Burns discloses a system wherein the insertion component 210 comprises a separate component within a communications channel between video camera 230 and monitor 250 (see Fig. 7). Burns does not explicitly teach that the insertion component may be integrated in the

monitor (as per claim 26) or the video camera (as per claim 25). However, Uekane discloses an integrated camera-monitor system wherein an insertion component 209 is integrated with a monitor and camera (See Fig. 7). Hence, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the insertion component described in the combination of Burns and Baker, by providing it within the camera or monitor, in light of the teachings of Uekane, thereby integrating the camera, monitor, and insertion component and unifying these components into one system.

Response to Arguments

6. Applicant's arguments with respect to claims13-15, 17-35 have been considered but are moot in view of the new ground(s) of rejection. This action is made NON-FINAL.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cameron Saadat whose telephone number is 703-305-5490. The examiner can normally be reached on M-F 8:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin Wallace can be reached on 703-308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

CS
May 2, 2003

S. THOMAS HUGHES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700